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| 09/412,122                  | 10/05/1999  | ALBERTO GUTIERREZ, JR. | RR2619              | 9247             |
| 49403                       | 7590        | 07/30/2010             |                     |                  |
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| EXAMINER                    |             |                        |                     |                  |
| BATISTA, MARCOS             |             |                        |                     |                  |
| ART UNIT                    |             | PAPER NUMBER           |                     |                  |
| 2617                        |             |                        |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

09/412,122

**Applicant(s)**

GUTIERREZ, JR. ET AL.

**Examiner**

MARCOS BATISTA

**Art Unit**

2617

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-29, 33-42 and 46-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-29, 33-42 and 46-57 is/are rejected.
- 7) ☐ Claim(s) 26-29, 39-42 and 54-57 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 October 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF-08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

### DETAILED ACTION

1. This Action is in response to Applicant's Pre-Brief Conference Request filed on 01/20/2010. Claims 18-29, 33-42, and 46-57 are still pending in the present application.

This Action is made **NON-FINAL**.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

6. **Claims 18-21, 25, 33, 34, 38, 46-49, and 53** are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsunehara et al. (US 6307844 B1), hereafter "Tsunehara," in view of Diachina et al. (US 5694391 A), hereafter "Diachina."

Consider **claim 18**, Tsunehara discloses a base station that supports communications with a plurality of subscriber units in a CDMA wireless communication system, the base station comprising (**see fig. 3, col. 4 lines 20-28**): an antenna (**30**); a radio frequency interface coupled to the antenna (**32**); a spreader/despreader coupled to the radio frequency interface(**48/33**); a coder/decoder coupled to the spreader/despreader (**56a/36**); processing circuitry coupled to the coder/decoder (**41**); memory coupled to the processing circuitry(**38**); a base station controller interface coupled to the processing circuitry (**40**); and the base station supporting a power control channel comprising (**see fig. 3, col. 4 lines 20-28**): a plurality of power control bits, each power control bit corresponding to a reverse link common channel of the plurality of reverse link common channels and directing a respective subscriber unit to adjust its reverse link transmission power (**see fig. 9, abstract, col. 1 lines 48-63, col. 7 lines 43-50**).

Tsunehara, however, does not particular refer to a plurality of inhibit bits, each of the plurality of inhibit bits corresponding to a reverse link common channel of the plurality of reverse link common channels and indicating whether a dedicated burst mode has been scheduled for the reverse link common channel.

Diachina, in analogous art, teaches a plurality of inhibit bits (**e.g., BRI flags**), each of the plurality of inhibit bits corresponding to a reverse link common channel of the plurality of reverse link common channels and indicating whether a dedicated burst mode has been scheduled for the reverse link common channel (**see col. 3 lines 18-23, col. 6 lines 35-40, col. 9 lines 41-45, col. 11 lines 31-43** - where Diachina teaches using a plurality of Busy/Reserved/Idle Flags to indicate transmission access to a plurality of mobile stations on a uplink shared channel).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Tsunehara and have it include a plurality of inhibit bits, each of the plurality of inhibit bits corresponding to a reverse link common channel of the plurality of reverse link common channels and indicating whether a dedicated burst mode has been scheduled for the reverse link common channel, as taught by Diachina. The motivation would have been in order to signal uplink transmission access to a plurality of mobile stations on a shared channel (**see col. 3 lines 18-23, col. 6 lines 35-40, col. 9 lines 41-45, col. 11 lines 31-43**).

Consider **claim 19**, Tsunehara as modified by Diachina discloses claim 18 above. Tsunehara also discloses wherein a power control bit of the plurality of power control bits are transmitted by the base station during a message capsule of a respective reverse link common channel (see col. 3 lines 55-61).

Consider **claim 20**, Tsunehara as modified by Diachina discloses claim 18

above. Diachina also discloses wherein an inhibit bit corresponding to a respective reverse link common channel is transmitted during an idle time of the respective reverse link common channel (see col. 3 lines 18-23, col. 6 lines 35-40, col. 9 lines 41-45, col. 11 lines 31-43). The motivation would have been in order to signal uplink transmission access to a plurality of mobile stations on a shared channel (see col. 3 lines 18-23, col. 6 lines 35-40, col. 9 lines 41-45, col. 11 lines 31-43).

Consider **claim 21**, this claim discusses the same subject matter as claim 18. Therefore, it has been analyzed and rejected based upon the rejection to claim 18.

Consider **claim 25**, Tsunehara as modified by Diachina discloses claim 18 above. Diachina also discloses wherein the power control signal further comprises: a third power control/inhibit bit stream that corresponds to a third reverse link common channel; and a fourth power control/inhibit bit stream that corresponds to a fourth reverse link common channel (see col. 3 lines 18-23, col. 6 lines 35-40, col. 9 lines 41-45, col. 11 lines 31-43). The motivation would have been in order to signal uplink transmission access to a plurality of mobile stations on a shared channel (see col. 3 lines 18-23, col. 6 lines 35-40, col. 9 lines 41-45, col. 11 lines 31-43).

Consider **claim 33**, this claim discusses the same subject matter as claim 18. Therefore, it has been analyzed and rejected based upon the rejection to claim 18.

Consider **claim 34**, this claim discusses the same subject matter as claim 18. Therefore, it has been analyzed and rejected based upon the rejection to claim 18.

Consider **claim 38**, this claim discusses the same subject matter as claim 25. Therefore, it has been analyzed and rejected based upon the rejection to claim 25.

Consider **claim 46**, Tsunehara discloses a method for transmitting power control bits from a base station to a plurality of subscriber units in a code division multiple access wireless communication system, the common power control bits causing the subscriber units to manage their reverse link transmissions on a plurality of reverse link common channels, the method comprising (**see fig. 9, abstract, col. 1 lines 48-63, col. 7 lines 43-50**): determining a plurality of power control bits, each power control bit corresponding to a respective reverse link common channel of the plurality of reverse link common channels and directing a respective subscriber unit to adjust its reverse link transmission power (**see fig. 9, abstract, col. 1 lines 48-63, col. 7 lines 43-50**); assembling the plurality of power control bits and the plurality of inhibit bits into a common bit stream; and transmitting the common bit stream to the plurality of subscriber units (**see fig. 9, abstract, col. 1 lines 48-63, col. 7 lines 43-50**).

Tsunehara, however, does not particular refer to determining a plurality of inhibit bits, each of the plurality of inhibit bits corresponding to a respective reverse link common channel of the plurality of reverse link common channels and indicating whether a dedicated burst mode has been scheduled for the reverse link common

channel.

Diachina, in analogous art, teaches determining a plurality of inhibit bits (**e.g., BRI Flags**), each of the plurality of inhibit bits corresponding to a respective reverse link common channel of the plurality of reverse link common channels and indicating whether a dedicated burst mode has been scheduled for the reverse link common channel (**see col. 3 lines 18-23, col. 6 lines 35-40, col. 9 lines 41-45, col. 11 lines 31-43** - where Diachina teaches using a plurality Busy/Reserved /Idle Flags to indicate transmission access to a plurality of mobile stations on a uplink shared channel).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Tsunehara and have it include determining a plurality of inhibit bits, each of the plurality of inhibit bits corresponding to a respective reverse link common channel of the plurality of reverse link common channels and indicating whether a dedicated burst mode has been scheduled for the reverse link common channel, as taught by Diachina. The motivation would have been in order to signal uplink transmission access to a plurality of mobile stations on a shared channel (**see col. 3 lines 18-23, col. 6 lines 35-40, col. 9 lines 41-45, col. 11 lines 31-43**).

Consider **claim 47**, this claim discusses the same subject matter as claim 19. Therefore, it has been analyzed and rejected based upon the rejection to claim 19.

Consider **claim 48**, this claim discusses the same subject matter as claim 20.



Therefore, it has been analyzed and rejected based upon the rejection to claim 20.

Consider **claim 49**, this claim discusses the same subject matter as claim 46.  
Therefore, it has been analyzed and rejected based upon the rejection to claim 46.

Consider **claim 53**, this claim discusses the same subject matter as claim 25.  
Therefore, it has been analyzed and rejected based upon the rejection to claim 25.

7. **Claims 22-24, 35, 36, and 50-52** are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsunehara et al. (US 6307844 B1), hereafter "Tsunehara," in view of in view of Diachina et al. (US 5694391 A), hereafter "Diachina," further in view of Mucke et al. (US 5548616 A), hereafter "Mucke."

Consider claim 22, Tsunehara as modified by Diachina discloses claim 18 above. Tsunehara, however, alone or combined does not particular refer to wherein the second power control/inhibit bit stream is offset from the first power control/inhibit bit stream by a fixed offset.

Mucke, in analogous art, teaches wherein the second power control/inhibit bit stream is offset from the first power control/inhibit bit stream by a fixed offset (**see col. 5 lines 28-36**).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Tsunehara as modified by Diachina and

have it include wherein the second power control/inhibit bit stream is offset from the first power control/inhibit bit stream by a fixed offset, as taught by Mucke. The motivation would have been in order to provide a circuit arrangement that provides an adaptive transmitter power control function for use with a spread spectrum transmitter (**see col. 2 lines 56-59**).

Consider **claim 23**, Tsunehara as modified by Diachina discloses claim 18 above. Tsunehara, however, alone or combined does not particular refer to wherein the second power control/inhibit bit stream is offset from the first power control/inhibit bit stream by a pseudo-random offset.

Mucke, in analogous art, teaches wherein the second power control/inhibit bit stream is offset from the first power control/inhibit bit stream by a pseudo-random offset (**see col. 1 lines 21-31, col. 5 lines 28-36**). The motivation would have been in order to provide a circuit arrangement that provides an adaptive transmitter power control function for use with a spread spectrum transmitter (**see col. 2 lines 56-59**).

Consider **claim 24**, Tsunehara as modified by Diachina discloses claim 18 above. Tsunehara, however, alone or combined does not particular refer to wherein the second power control/inhibit bit stream is offset from the first power control/inhibit bit stream by a varying offset that is based upon a counter value.

Mucke, in analogous art, teaches to wherein the second power control/inhibit bit stream is offset from the first power control/inhibit bit stream by a varying offset that is

based upon a counter value (**see col. 3 lines 1-16**). The motivation would have been in order to provide a circuit arrangement that provides an adaptive transmitter power control function for use with a spread spectrum transmitter (**see col. 2 lines 56-59**).

Consider **claim 35**, this claim discusses the same subject matter as claim 22. Therefore, it has been analyzed and rejected based upon the rejection to claim 22.

Consider **claim 36**, this claim discusses the same subject matter as claim 23. Therefore, it has been analyzed and rejected based upon the rejection to claim 23.

Consider **claims 50-52**, these claims discuss the same subject matter as claims 22-24 respectively. Therefore, they have been analyzed and rejected based upon the rejection to claims 22-24.

#### ***Allowable Subject Matter***

8. **Claims 26-29, 39-42 and 54-57** objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Marcos Batista, whose telephone number is (571) 270-5209. The Examiner can normally be reached on Monday-Thursday from 8:00am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Rafael Pérez-Gutiérrez can be reached at (571) 272-7915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

*/Marcos Batista/*  
Examiner

*/Rafael Pérez-Gutiérrez/*  
Supervisory Patent Examiner, Art Unit 2617

07/27/2010